



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,837	08/29/2001	Shawn R. Gettemy	PALM-3651	8549

7590 12/13/2006

WAGNER, MURABITO & HAO LLP  
Third Floor  
Two North Market Street  
San Jose, CA 95113

EXAMINER

PIZIALI, JEFFREY J

ART UNIT	PAPER NUMBER
----------	--------------

2629

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notice of Non-Compliant  
Amendment (37 CFR 1.121)**

Application No.

09/942,837

Examiner

Jeff Piziali

Applicant(s)

GETTEMY ET AL.

Art Unit

2629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 02 October 2006 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_.
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_.
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_.
- ☐ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☐ E. Other: \_\_\_\_\_.
- ☒ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):  
See Continuation Sheet

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

**TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:**

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

**Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

**Failure to timely respond** to this notice will result in:

**Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

**Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

  
Legal Instruments Examiner (LIE), if applicable

571 272 7264  
Telephone No.

## Continuation of 5 Other:

First and foremost, the applicant is cordially thanked for the 'Response to Restriction Requirement' filed 2 October 2006. However, at least one non-compliance error has been discovered in the aforementioned response, requiring attention before examination may continue.

The 'Remarks' section of the response states, "Applicants elect without traverse Species 2B for prosecution on the merits. As such, Claims 4, 7, 14, 16, 20 and 23, which are drawn to non-elected species, are herein withdrawn from consideration" (see Page 7, Bottom Paragraph of the 'Response to Restriction Requirement' filed 2 October 2006).

However, the response does not anywhere provide a listing of all claims readable on elected Species 2B. As explained in the Restriction Requirement (mailed 24 August 2006), "Applicants are advised that a reply to this requirement must include an identification of the species and sub-species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added" (see Page 3, 2nd to Last Paragraph of the Restriction Requirement mailed 24 August 2006).

Although the Applicants' decision to withdraw claims 4, 7, 14, 16, 20 and 23 would suggest that the remaining claims are considered to be drawn to Species 2B; still pending claims 8, 17, and 24 are dependent respectively upon withdrawn claims 7, 16, and 23. This renders it unclear whether claims 8, 17, and 24 are drawn to Species 2B and were meant to be elected by the applicants -- or whether said claims are nonelected and should be withdrawn. The Applicants are respectfully requested to identify which pending claims are specifically drawn to elected Species 2B.

By such reasoning, this Notice of Non-Compliance is deemed necessary and proper at this time.

Please note: The response has not been checked to the extent necessary to determine the presence of all possible non-compliance errors. If additional issues of non-compliance are discovered at the time of a subsequent response, yet another Notice of Non-Compliant Amendment will be necessitated. Applicants' cooperation is requested in correcting any other errors of which applicant may become aware.



Jeff Piziali  
11 December 2006.